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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,833	03/26/2001	Kazuhiko Yukawa	15162/03380	7882
24367	7590	02/22/2006	EXAMINER	
SIDLEY AUSTIN LLP 717 NORTH HARWOOD SUITE 3400 DALLAS, TX 75201			NGUYEN, LUONG TRUNG	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 09/817,833	Applicant(s) YUKAWA ET AL.	
	Examiner LUONG T. NGUYEN	Art Unit 2612	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-21.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 01/20/2006 have been fully considered but they are not persuasive.

In re page 8, Applicant argues that Komiya does not support the interpretation “P1 and P2 are outside the region of focus; therefore, the depth of field must be a region between, but not including P1 and P2 in Figs. 2-3.”

In response, the Examiner disagrees. Komiya, figures 2-3, discloses Px is the in-focus point (the peak focus signal); P1 is under shoot position, the photographing optical system 1 is not in focus; P2 is over shoot position, the photographing optical system 1 passes the in-focus point Px and P2 is also not in focus. Since P1 and P2 are not the focus point, the photographing system 1 must move a distance in order to move into the in-focus point  $\alpha$ , P1 and P2 are outside the region of the focus; therefore, the depth of field must be a region between, but not including P1 and P2 in Figures 2-3. Note that if P1 or P2 is the in-focus point, the photographing system 1 don't need to move.

In light of the foregoing, the Examiner considers that Komiya does disclose the feature “a driver for driving a taking lens in steps each producing movement of said taking lens through a distance greater than a depth of field.” Komiya discloses a driver (pulse motor 16, Figure 1, Column 2, Lines 20-25) for driving a taking lens (photographing optical system 1, Figure 1, Column 1, Lines 35-45) in steps each produce movement of said taking lens through a distance (the optical system 1 moves a distance  $\Delta x$  in each sampling interval for a predetermined period of time, Figure 2, Column 3, Lines 2-6) greater than a depth of field (it is noted that the depth of

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field is the region in both side of the peak value  $P_x$  (in-focus point, position  $\alpha$  in Figures 2-3) where the photographing optical system 1 is in focus;  $P_1$  is under shoot position, the photographing optical system 1 is not in focus;  $P_2$  is over shoot position, the photographing optical system 1 passes the in-focus point  $P_x$  and  $P_2$  is also not in focus; therefore,  $P_1$  and  $P_2$  are outside the region of the focus; therefore, the depth of field must be a region between, but not including  $P_1$  and  $P_2$  in Figures 2-3. In order to obtain the in-focus point, the photographing optical system 1 moves a distance  $\Delta x$  in each step from  $P_0$  to  $P_1$  and then from  $P_1$  to  $P_2$ ; since the depth of field is a region somewhere between  $P_1$  and  $P_2$ , the photographing optical system 1 moves a distance  $\Delta x$  in each step inherently greater than the depth of field).

2. It should be noted that the newly added limitation in claim 20 (lines 4-5) raise new issues that would require further consideration and/or search.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T. NGUYEN whose telephone number is (571) 272-7315. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID L. OMETZ can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN

01/30/06

  
TUAN HO  
PRIMARY EXAMINER